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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/720,523	05/02/2001	Rudolf Ritter	PM275480	1568
22850	7590	07/11/2006	EXAMINER	
OBLON, SPIVAK, MCCLELLAND, MAIER & NEUSTADT, P.C.			FADOK, MARK A	
1940 DUKE STREET			ART UNIT	
ALEXANDRIA, VA 22314			PAPER NUMBER	
			3625	

DATE MAILED: 07/11/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/720,523

Applicant(s)

RITTER, RUDOLF

Examiner

Mark Fadok

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 17 April 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 21-38 is/are pending in the application.
- 4a) Of the above claim(s) 21,22,26-31 and 36-38 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 23,25 and 32-35 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 17 April 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Response to Amendment***

The examiner is in receipt of applicant's response to office action mailed 1/17/2006, which was received 4/17/2006. The drawing amendment is found to be acceptable therefore the drawing rejection has been obviated. Acknowledgement is made to a traverse of the response to the election requirement. The examiner restates that response to the distinctness of the species by saying that the distinctness may be found within the features of the listed species group. Applicant appears to understand this as is displayed in the argument to include claim 34 because this feature is within the scope of claim 33. Since the feature found in claim 34 is found in the cited art an additional non-final is not required. In regards to applicant's arguments on the merits, the arguments have been carefully considered, but were not found to be persuasive, therefore the previous office action is restated below:

### **Examiner's Note**

Examiner has cited particular columns and line numbers or figures in the references as applied to the claims below for the convenience of the applicant. Although the specified citations are representative of the teachings in the art and are applied to the specific limitations within the individual claim, other passages and figures may apply as well. It is respectfully requested from the applicant, in preparing the responses, to fully consider the references in entirety as potentially teaching all or part

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of the claimed invention, as well as the context of the passage as taught by the prior art or disclosed by the examiner.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**Claims 23,25,32,33,34 and 35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ali-Vehmas et al (US 6,035,189) in view of Morrill, Jr (US 5,991,749).**

**In regards to claim 32, Ali-Vehmas discloses a method for selling products over a mobile radio network, the mobile radio network including a plurality of participants and being coupled to a sales module (col 7, lines 1-50), comprising:**

broadcasting offer information via the mobile radio network in accordance with a text messaging protocol to the plurality of participants in the mobile radio network, the offer information including an identification of the products and an identification of a vendor of the products (col 7, lines 15-30);

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storing quantity information in the sales module, the quantity information indicating an available number of the products provided by the vendor (col 5, lines 65-67 );

receiving an order data in the sales module from a participant of the plurality of participants via the mobile radio network in response to the broadcasting, the order data including a request for a product of the products and an identification of the participant (col 5, lines 65-67);

confirming by the sales module that the available number of the products is greater than zero (col 7, lines 25 and 26);

Ali-Vehmas teaches the use of an intelligent cell phone to communicate reservation of products such as event tickets and a means for payment of such services or products, but does not specifically mention that a token exchangeable for the product is forwarded to both the vendor and the participant. Morrill teaches an order and payment process that sends a confirmation including an authorization code that consummates the sale purchase of goods or services (FIG 1A-1E). It would have been obvious to a person having ordinary skill in the art at the time of the invention to include in Ali-Vehmas a token exchangeable for the product is forwarded to both the vendor and the participant, because this will assure that the transaction has been properly authorized and completion of the transaction is confirmed (Morrill, col 1, lines 55-60).

adjusting the quantity information in the sales module based on the token (col 7, line 25).

**In regards to claim 23**, the combination of Ali-Vehmas and Morrill teach wherein the order data includes a requested quantity of the products (col 5, lines 65-67).

**In regards to claim 25**, the combination of Ali-Vehmas and Morrill teach wherein the token includes a delivery number (Morrill, FIG 1E).

**In regards to claim 33 and 34**, the combination of Ali-Vehmas and Morrill teach wherein the product includes at least one of goods and services (col 5, lines 64-67).

**In regards to claim 35**, the combination of Ali-Vehmas and Morrill teach wherein, the text messaging protocol is a SMS protocol, the broadcasting includes transmitting the offer information in multiple SMS short messages to the plurality of participants, and the transmitting of the token to the participant includes transmitting the token in a SMS short message to a mobile communications device of the participant (col 7, lines 5-35).

### ***Response to Arguments***

#### ***Definition***

Token - The specification describes a token in the following context "a token is generated which represents an unambiguous certificate, and which also contains, for example, information for identifying the ordered product and/or the respective vendor 1". By this excerpt of the specification the examiner understands the token to be any one of a certificate, voucher or confirmation that reserves a product for pick up at a later date.

Applicant's arguments filed 4/17/2006 have been fully considered but they are not persuasive.

Applicant argues that Ali-Vehmas does not teach "broadcasting offer information via a mobile radio network in accordance with a text messaging protocol to the plurality of participants in the mobile radio network, the offer information including an identification of the products and an identification of a vendor of the products". Applicant is further directed to col 6, where there is a discussion of bi-directional communication using text-messaging protocol. The examiner agrees that there is an intelligent card that provides the means for connection to the service, but notes that offer information (show times and theater information col 5) is clearly broadcast to the recipient over a GMS system (col 5, lines 15-20).

Applicant argues that the combination of Ali-Vehmas/Morrill does not teach sending a confirmation to both the user and vendor. The examiner disagrees and further directs the applicant's attention to Morrill col 5, lines 45-50, which clearly teaches notifying the user and vendor of the transaction and supplying a voucher and voucher confirmation to both the user and the vendor.

Applicant argues that the combination of Ali-Vehmas/Morrill does not teach reducing the number of products available after the confirmation is sent to the vendor

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and purchaser. The examiner disagrees noting that this feature is inherent in the response "sold out" in that the only way this information could be presented is if a running tally of the availability is maintained.

### ***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Mark Fadok** whose telephone number is **571.272.6755**. The examiner can normally be reached Monday thru Friday 8:00 AM to 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, **Jeff Smith** can be reached on **571.272.6763**.

Any response to this action should be mailed to:



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**Commissioner for Patents**

**P.O. Box 1450**

*Alexandria, Va. 22313-1450*

or faxed to:

**571-273-8300**

[Official communications; including

After Final communications labeled

"Box AF"]

For general questions the receptionist can be reached at

571.272.3600

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Status information for unpublished applications is available through Private PAIR only.

For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Mark Fadok

Primary Examiner